

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

JAMES E. TOWNSEND, SR., and
CONTESSA IDLEBURG,

Petitioner,

v.

ASSAD F. MALATY,

Respondent.

HUD Case No. 04-18-0442-8

FCHR No. 201708199

DOAH No. 18-4634

FCHR Order No. 21-030

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE**

Preliminary Matters

On August 24, 2017, Petitioner, Dr. James Townsend, filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2017), alleging that Respondent, Assad Malaty, committed discriminatory housing practices against Complainant and his niece, Contessa Idleburg.

The Florida Commission on Human Relations added Ms. Idleburg as a Complainant, and the allegations set forth in the complaint were investigated.

On August 21, 2018, the Executive Director issued a determination finding that there was reasonable cause to believe that a discriminatory housing practice had occurred for failure to make reasonable modifications and accommodations, but that there was no reasonable cause to believe that a discriminatory housing practice had occurred in the terms and conditions of housing.

On September 4, 2018, Petitioner filed a Petition for Relief from a Discriminatory Housing Practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

A final evidentiary hearing was scheduled for December 3 and 4, 2018, but a continuance was granted to allow Petitioners a chance to confer with the Attorney General's office about their election of remedies.

The final evidentiary hearing began on April 2, 2019, in Lakeland, Florida, in front of Administrative Law Judge Andrew D. Manko, but the parties requested more time to file additional exhibits, which was granted.

On April 17, 2019, a teleconference was held where the parties indicated that further testimony was needed concerning the additional exhibits.

A continuation of the final evidentiary hearing took place on June 13, 2019, before Judge Manko via video teleconference between sites in Tallahassee and Lakeland, Florida.

On December 19, 2019, Judge Manko issued a Recommended Order of dismissal.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

We adopt the Administrative Law Judge's conclusions of law.

Exceptions

Petitioner Townsend filed a Motion to Appeal on January 6, 2020, that can be considered his Exceptions to the Recommended Order. However, Petitioner's filing did not comply with the statute of limitations for filing exceptions under section 120.57(1)(k), *Florida Statutes*, which requires that Exceptions be filed within 15 days of the date that a Recommended Order is issued.

Additionally, even if the filing had been timely, the Administrative Procedure Act states that, "The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." Section 120.57(1)(k), *Florida Statutes* (2018); see, also Taylor v. Universal Studios, FCHR Order No 14-007 (March 26, 2014), McNeil v. HealthPort Technologies, FCHR Order No. 12-026 (June 27, 2012), and Bartolone v. Best Western Hotels, FCHR Order No. 07-045 (August 24, 2007).

Petitioner's document did not identify the disputed portion of the Recommended Order by page number or paragraph, and did not identify the legal basis for the exceptions with appropriate and specific citations to the record.

Accordingly, Petitioner's Exceptions are rejected.

Dismissal

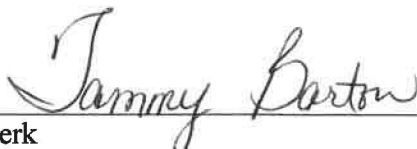
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 5 day of May, 2021.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Mario Garza, Panel Chairperson;
Commissioner Darrick McGhee; and
Commissioner Angela Primiano

Filed this 5 day of May, 2021, in Tallahassee, Florida.


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Andrew D. Manko, Administrative Law Judge, DOAH

Sarah Stewart, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 5 day of May, 2021.

By: Janney Barton
Clerk of the Commission
Florida Commission on Human Relations